**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

CommWorks Solutions, LLC,	§	
Plaintiff	§	
	§	
-v-	§	**Civil Action No. 6:21-cv-00366-ADA**
	§	
Comcast Cable Communications, LLC, *et al.*	§	
	§	
Defendant	§	

CLAIM CONSTRUCTION ORDER

The Court construes the terms of U.S. Patent Nos. 6,832,249 ("the '249 Patent"), 7,027,465 ("the '465 Patent"), 7,177,285 ("the '285 Patent"), 7,760,664 ("the '664 Patent"), 8,923,846 ("the '846 Patent"), and RE42,883 ("the '883 Patent") as follows:

Disputed Term	Court's Final Construction
"Provisioning" / "Provisioned" (Claims 11, 15, 19, 31, 38, 48, 49 of the '249 Patent; Claims 1, 22, 43 of the '285 Patent; Claims 1, 2, 4, 7, 8, 9, 12 of the '664 Patent)	"establishing/established"
"Open System Interconnection (OSI) reference model layers" (Claims 11, 31, 38, 48 of the '249 Patent)	Plain and ordinary meaning.

"monitor[ing] at least one OSI reference model layer" (Claims 11, 29, 30, 31, 38, 48 of the '249 Patent)	Plain and ordinary meaning
"quality of service event" (Claims 11, 15, 17, 18, 19, 31, 32, 41, 48, 49 of the '249 Patent)	"any event that affects the quality of service of data being sent across a communication system"
"signaling that the network provisioning…has been changed" (Claims 11, 31, 48, 49 of the '249 Patent)	"signaling that the network provisioning…has been changed"
"balancing data traffic throughout the network" (Claims 32, 33 of the '249 Patent)	Plain and ordinary meaning.
"shortest possible path" (Claim 33 of the '249 Patent)	"fastest path"
"means for monitoring at least one OSI reference layer functioning in the multi-layered network" (Claim 49 of the '249 Patent)	Construed in accordance with 35 U.S.C. §112(f). Function: monitoring at least one OSI reference model layer functioning in the multi-layered network. Structure: a network monitor performing proactive monitoring, reactive monitoring or both.

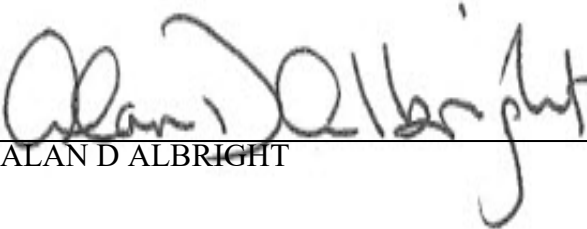|	

"means for determining that a quality of service event has occurred in the multi-layered network"
 	
(Claim 49 of the '249 Patent)
	Construed in accordance with 35 U.S.C. §112(f).
	
	Function: determining that a quality-of-service event has occurred in the multi-layered network.
	
	Structure: a network controller performing one of the following algorithms:
	
	   1) comparing one of the following metrics to a threshold: error seconds, packet loss or jitter;
	
	   2) determining when communication resources are added or deleted ; or
	
	   3) determining when an application server signals its intention to send rich media content.

"means for determining that the quality of service event occurred at a layer N in the OSI Reference Model" (Claim 49 of the '249 Patent)	Construed in accordance with 35 U.S.C. §112(f). Function: determining that the quality-of-service event occurred at a layer N in the OSI Reference Model. Structure: a network controller performing the algorithm of: identifying a communication resource associated with QOS event; locating the communication resource in a resource database, and determining the layer associated with the communication resource. (see 11:54-67).

"means for responding to the quality of service event in the multilayered network by changing network provisioning at a layer less than N"
 	
(Claim 49 of the '249 Patent)
	Construed in accordance with 35 U.S.C. §112(f).
	
	Function: responding to the quality-of-service event in the multilayered network by changing network provisioning at a layer less than N.
	
	Structure: a network monitor performing one of the following algorithms:
	
	   1) activating an additional line;
	
	   2) adjusting the load on previously activated lines; or
	
	   3) setting up a specific path for a given sequence of packets identified by a label inserted in each packet; or activating an additional virtual circuit.

"means for signaling that the network provisioning at the layer less than N has been changed" (Claim 49 of the '249 Patent)	Function: signaling that the network provisioning at the layer less than N has been changed. Structure: a signaling network comprised of fiber lines that implements Internet Protocol (IP).
"identifying a received frame as a priority frame in case said extracted bit pattern matches with said search pattern" (Claims 1, 6, 7 of the '465 Patent)	"identifying a received frame as a priority frame if the extracted pattern is the same as the search pattern"
"priority frame" (Claims 1, 6, 7 of the '465 Patent)	Plain and ordinary meaning.
"offset" (Claims 1, 6, 7 of the '465 Patent)	Plain and ordinary meaning.
"high priority queue" (Claim 7 of the '465 Patent)	"queue reserved exclusively for high priority frames"
"tracking an operating parameter of [the/a] wireless device [within a service area]" (Claims 1, 22, 43 of the '285 Patent)	Plain and ordinary meaning.

"[logic for] initiating [provisioning/an association] of the wireless device [with a network] if the tracked operating parameter occurs within a time interval" (Claims 1, 22, 43 of the '285 Patent)	Construed in accordance with 35 U.S.C. §112(f). Function: initiating [provisioning/an association] of the wireless device if the tracked operating parameter occurs within a time interval. Structure: an access point, comprising a provisioning activation button, time-based provisioning logic, access control list, wired network logic, a wired network connection and a transceiver.
"time interval" (Claims 1, 4, 13, 14, 22, 25, 34, 35, 43, 46, 54, 55 of the '285 Patent)	Plain and ordinary meaning.
"means for tracking an operating parameter of [the/a] wireless device" (Claims 22, 43 of the '285 Patent)	Construed in accordance with 35 U.S.C. §112(f). Function: tracking an operating parameter of [the/a] wireless device. Structure: an access point, comprising a provisioning activation button, time-based provisioning logic, access control list, wired network logic, a wired network connection, and a transceiver.
"digital cross connect [system]" (Claims 1, 3, 4, 6, 7, 9, 13 of the '664 Patent)	"any device that interconnects networks to facilitate traffic routing from one network to another or to link portions of networks using one protocol or traffic rate to another portion using a different protocol or rate"
"means for creating a graph of routing nodes and links" (Claim 4 of the '664 Patent)	Construed in accordance with 35 U.S.C. §112(f). Function: creating a graph of routing nodes and links. Structure: a network configuration management system comprising a routing manager and inventory database implementing the algorithms disclosed in '664 pat., col. 3:22-25, 4:7-9, 4:13-18, 6:64-7:45; *see also* '187 pat. app. (US 2003/0189919), paras. [0032]-[0033], [0035].

"means for modeling said at least a first digital cross connect system as a link between those routing nodes representing said first network element and said second network element" (Claim 4 of the '664 Patent)	Construed in accordance with 35 U.S.C. §112(f). Indefinite Function: modeling said at least a first digital cross connect system as a link between those routing nodes representing said first network element and said second network element Structure: none disclosed
"means for storing a status of each of said interconnections" (Claim 4 of the '664 Patent)	Construed in accordance with 35 U.S.C. §112(f). Function: storing a status of each of said interconnections Structure: cross connection status database.
"whether a cross-connection using said digital cross connect [system] was successfully provisioned" (Claim 49 of the '664 Patent)	Plain and ordinary meaning.
"transport address" (Claims 1, 4, 5, 6, 7, 8 of the '846 Patent)	"IP address associated with a mobile node while the subscriber is visiting a particular foreign link" Note: transport address is different than a static home address.
"home subscription server (HSS)" (Claim 2 of the '846 Patent)	"a home subscription server (HSS) as defined in Section 5.3.2 of Technical Report TR23.821 V1.0.1 published July 2000 by the 3rd Generation Partnership Project (3GPP)."
"serving-call state control function (S- CSCF)" (Claim 3 of the '846 Patent)	"serving-call state control function (S-CSCF) as defined in Section 5.3.1 of Technical Report TR23.821 V1.0.1 published July 2000 by the 3rd Generation Partnership Project (3GPP)."

"telephone network" (Claims 1, 6 of the '883 Patent)	"a circuit-switched or packet-based telephone network"
"add[ing] the collaboration session to the [existing/chosen] telephone call" (Claims 1, 6, 8 of the '883 Patent)	Plain and ordinary meaning.

SIGNED this 8th day of March, 2022.

ALAN D ALBRIGHT